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P56103C**REMARKS**

This response has been prepared in response to the Office action of 9 June 2005 (Paper No. 20050509).

**Status Of The Pending Claims**

Claims 1 through 53 are pending in the application. The allowance of claims 1 through 12, 23 through 28 and 35 through 49 is noted with appreciation.

**Rejection of Claims Under 37 C.F.R. §103**

I. **Claims 13-21, 29-34 and 50-53 are rejected under 35 U.S.C. §103(a) as being unpatentable over USP 6,111,505 (Wagener).**

In Paper No. 20060214, claims 13 through 21, 29 through 34 and 50 through 53 are rejected under 35 U.S.C. 103(a) as being obvious, and therefore unpatentable, over U.S. Patent № 6,111,505 (Wagener). Applicant respectfully traverses this rejection for the following reasons.

**A. – The rejection of claims 13-21, 29-34 and 50-53 as rendered obvious by Wagener '505 is based upon an improper application of 35 U.S.C. §103(a)**

In support of this rejection, the Examiner argued that Applicant's explanations set forth in the previously filed Amendment to demonstrate that Wagener does not disclose:

- a) "an alarm signal in response to an unauthorized interruption of communication via said port";
- b) "unauthorized interruption of said communication via said port" [paragraph bridging pages 27 and 28 on page 32];
- c) "a breach of a network security loop in Wagener" is not convincing evidence

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of an unauthorized interruption of communication link 30 [page 31, 1<sup>st</sup> paragraph];

- d) “there is no basis nor motivation to support Examiner’s rejection” [page 32, last paragraph]; and
- e) “the proposed combination is nothing more than a hindsight reconstruction of the art provided by the applicant alone” [page 33, 1<sup>st</sup> paragraph],

Any rejection under 35 U.S.C. §103(a) must be based upon a consideration of “the subject matter as a whole”; here, the rejection is premised upon a dissection of Applicant’s remarks rather than upon the “subject matter” of the claims taken “as a whole.” Each of the foregoing statements which the Examining staff has excerpted from Applicant’s remarks, was followed by an extensive exploration of the applied art and a demonstration of the deficiencies found between that art and the rejected claims. The Examining staff however, in formulating this rejection has endeavored to articulate a point-by-point of these excerpted characterizations of Applicant’s arguments, rather than address the substance of those arguments; consequently, the Examining staff has neglected the subject matter of claims 13, 29, 50 and 52 taken as a whole.

**B. – The rejection of claims 13-21, 29-34 and 50-53 as rendered obvious by Wagener ‘505 fails to make a *prima facie* showing of obviousness and improperly endeavors to apply the prior art piecemeal to support a conclusion of obviousness under 35 U.S.C. §103(a)**

The rejection of claims 13 through 21, 29 through 34 and 50 through 53 as rendered obvious by Wagener ‘505 is grounded upon an improper application of 35 U.S.C. §103(a), which endeavors to apply the prior art to isolated features of the pending claims, rather than to the subject matter as a whole as is mandated by the express language of 35 U.S.C. §103(a).

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The Examining staff continues in this vein of refusing to consider the subject matter of the rejected claims as a whole, by now arguing that:

"First of all, it is well known to those ordinary skilled in the art that communication between two or more devices can be established in a wired or wireless communication link. Wired communication links between two or more devices comes in different flavors, such as a cable, a twisted pair or optical fiber. For two or more devices to be connected by wired communication links, it is conventional that these cables or twisted pair has connectors at the ends for connecting the two or more devices through their respective ports, for ease of connection and maintenance. Twisted pair type can be found on most stores, such as radio shack, and would usually have connectors at the ends for connecting two devices at their respective ports. Twisted pair type with connectors used to connect a computer port and a printer port is one example. Twisted pair type with connectors used to attach a monitor to a computer via a computer port would be another example. Networked computers would usually use cables that are protected from noise so that communications between computers cannot be interrupted, such as the cables used to connect a TV to a cable provider, and would use different type of communication port. In a wireless communication link, communication is established between two or more devices via transmit and receive ports. Obviously, any one of the well-known communication links and conventional cables or twisted pairs exemplified above, are suitable for connecting and establishing communication between the protected device and the guard computer of Wagener, to one of ordinary skill in art. With regards to the disclosure of Wagener, Figure 1 in Wagener shows the communication link 30 (network security loop) connecting the protected electronic device 12 to the guard computer 31 via a port 10. In Figure 2, Wagener shows a more detailed description of the port 10, connected to an outside line via the interface facility 18, such as the network interface, external alarm, and guard computer. Clearly, the communication link 30 is used to transfer data between the protected device 12 and guard computer, such as security data. In the specification, Wagener teaches that the disconnection of the electronic

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**device 12 from the network security loop triggers an alarm condition** {Wagener, col. 3, lines 45-53}. In another passage of the specification, Wagener teaches that **the breakage or interruption of the protected electronic device 12 from the security loop triggers an alarm condition** {Wagener, col. 5, lines 45-56}. The **breakage or interruption or disconnection of the protected electronic device 12 from the security loop** (breach of a security loop) would clearly result in a **breakage or interruption or disconnection of the communication** between the protected device 12 and guard computer, because when the communication link 30 between the protected device 12 and the guard computer is disconnected, there are no other means for the protected device 12 to communicate with the guard computer. The **breakage or interruption or disconnection of the communication** between the protected device 12 and guard computer is clearly unauthorized because it triggers an alarm condition {Wagener, Wagener, col. 3, lines 45-53; col. 5, lines 45-56}. Otherwise, there is no reason for triggering an alarm condition if the **breakage or interruption or disconnection of the protected electronic device 12 from the security loop** is not authorized. As exemplified by Wagener, **the protected device is being stolen** {Wagener, col. 7, lines 12-16}. Clearly, the guard computer establishes that the protected device is being stolen if there is a breach of the network security loop, so that the guard computer cannot communicate with the protected device. This breach of the network security loop is an inherent indication of an unauthorized interruption or disconnection of communication in the communication link 30 of Wagener. Otherwise, there is no way for the guard computer to determine whether the protected device is being stolen. Clearly, the unauthorized interruption of communication is via the port 10 or 18, because it is inherently via this port that cable connection is made, as shown in the figures 1 and 2, between the protected device and guard computer, so that communication is possible between the protected device and the guard computer through the communication link 30 to determine whether the protected device 12 is being stolen. Therefore, **the breakage or interruption or disconnection of the protected device 12 from the security loop** {Wagener, Wagener, col. 3, lines 45-53; col. 5, lines 45-56} is a clear indication of an unauthorized interruption of communication via said port, as claimed,

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because the guard computer determines that the protected device is being stolen {Wagener, col. 7, lines 12-16} if communication between the protected device is interrupted. In response to the unauthorized disconnection of the communication link between the protected device and guard computer, an alarm condition is triggered. Wagener teach of numerous examples of such unauthorized interruption of communication that triggers an alarm condition via the port 10, as claimed. Another instance is shown in Figures 5 and 6, wherein Wagener shows a security loop 34a connecting a protected electronic device 12a to an immovable object. Wagener discloses "an alarm sensor 13a is adapted to detect the detachment of the protected electronic device 12a from the immovable object 36a, so that an alarm is output if the protected electronic device 12a is being stolen" {Wagener, col. 7, lines 9-16}. Clearly, the unauthorized removal of the protected device 12a detaches the communication link between the protected device and the immovable object and interrupts the communication between the protected device 12a and the immovable object 36a, which in turn, an alarm is output. In other examples, Wagener discloses, "an alarm condition is generated when a block 44a (a port) is disconnected" {Wagener, col. 7, lines 49-53}. Clearly, the unauthorized disconnection of the port (block 44-a) would disconnect the communication link and interrupt communication, and in turn, signals the system to generate an alarm condition. And in Figure 7, Wagener shows how a communication link 56b is guarded from an unauthorized interruption of communication via a port 10b, between a protected device 12 and guard computer 31b, that is communicating via a transceiver 54b. These numerous examples by Wagener of an alarm being generated when the protected device is disconnected from the network loop should be ample evidence to show that in the event of theft, the disconnection of the protected device from the network security loop is "an unauthorized interruption of communication of said communication via said port, which generates the alarm condition", as claimed. Finally, it has been shown that applicant's claimed feature of "an alarm signal in response to an unauthorized (theft) interruption of communication (the breakage or interruption or disconnection of the protected device 12 from the security loop effectively disconnects or

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**interrupts or disconnects the communication link between the protected device and guard computer) via said port 10 or 18”** is not based upon improper hindsight reasoning or applicant’s own disclosure, as argued. But instead, based on Wagener’s disclosure as shown {Wagener, Figures 1-7; col. 3, lines 45-53; col. 5, lines 45-56; col. 7, lines 9-16; col. 7, lines 12-16; col. 7, lines 49-53}.”

These assertions by the Examining staff improperly focus upon Applicant’s remarks and explanations of the deficiencies found by Applicant in the art, and do not focus upon the substance of pending claims 13 through 21, 29 through 34 or 50 through 53. Claim 13, defines, *inter alia*,

**Claim 13**

“a housing comprised of a plurality of sidewalls bearing a movable lid, forming a container having a closed interior while said lid is in complete engagement with said housing, and providing an open interior able to removably receive cargo within said open interior after movement of said lid from said complete engagement; a port mounted to pass data signals through said housing; and a controller comprised of a memory storing information specific to said container, said controller being mounted entirely within said container, being completely encased by said container during said complete engagement, and being operationally coupled to provide communication by data signals with said interior via said port and to operationally respond to data signals received from sources external to said container via said port by regulating said movement in dependence upon said information, and establish an alarm condition in response to an unauthorized interruption of said communication via said port”;

**Claim 29**

“a housing selectively opening an interior able to removably receive and release cargo and enclosing said interior to bar

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removal of any cargo within said interior; at least one port disposed to pass data signals through said housing; a microprocessor-based control stage encased within said housing, comprised of a memory maintaining information specific to said housing, said control stage being operationally coupled to participate in communication from said interior via data signals conducted through said port with a host computer sited externally to said container, said control stage responding to data signals received via said port by selectively accommodating said release from said enclosed interior in dependence upon said information, and creating an alarm condition in response to an unauthorized interruption of said communication via said port";

**Claim 50**

"a housing selectively opening an interior able to removably receive and release cargo and enclosing said interior to bar removal of any cargo within said interior; a port disposed to pass data signals through said housing; a microprocessor-based control stage encased within said housing, comprised of a memory maintaining information specific to said housing, said control stage being operationally coupled to participate in communication from said interior via data signals conducted through said port with a host computer sited externally to said container, said control stage responding to data signals received via said port by selectively accommodating said release from said interior in dependence upon said information and disposition of said port relative to a source of said data signals";

and

**Claim 52**

"a housing selectively opening an interior able to removably receive and release cargo and enclosing said interior to bar removal of any cargo within said interior; a port disposed to pass data signals through said housing; a microprocessor-based control stage encased within said housing, comprised of a memory maintaining information specific to said housing, said control stage being operationally coupled to participate in

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communication from said interior via data signals conducted through said port with a host computer sited externally to said container, said control stage responding to data signals received via said port by selectively accommodating said release from said interior in dependence upon said information and disposition of said port within a timed scheme for generation of said data signals."

Nowhere does the Examining staff give consideration to Applicant's relation between "movement of said lid" and "controller ... operationally respond[-ing] to data signals ... by regulating said movement"<sup>1</sup>, nor Applicant's "housing selectively ... able to receive and release cargo" and "control stage ... responding to data signals ... by selectively accommodating said release"<sup>2</sup>, Applicant's "housing selectively opening an interior able to removably receive and release cargo" and "control stage ... responding to data signals ... by selectively accommodating said release ...".<sup>3</sup>

The implausible assertion by the Examining staff that "the removable items/cargo are computer peripherals" fails to address these deficiencies in the Examining staff's applications of 35 U.S.C. §103(a).<sup>4</sup> The Examiner's comments argue that Wagener '505 teaches,

"a housing" and "a controller (10) ... coupled to ... operationally respond to data signals received from sources external to said container {col. 4, lines 27-45} via said port by regulating said

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<sup>1</sup> Applicant's claim 13.

<sup>2</sup> Applicant's claim 29.

<sup>3</sup> Applicant's claims 50 and 52.

<sup>4</sup> Examiner's comments, page 8, Paper No. 20060214.

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movement in dependence upon said information {col. 3, lines 40-45}, and generating an alarm signal in response to an unauthorized interruption of said communication via said port {col. 3, lines 45-50; col. 5, lines 5-8, lines 45-56} ...”<sup>5</sup>

Examining these assertions *seriatim*,

**First,**

“a controller (10) ... coupled to ... operationally respond to data signals received from sources external to said container {col. 4, lines 27-45} via said port by regulating said movement ...”;

in actuality, column 4, lines 27 through 45 not only does not use the verb “movement”, but says nothing about Applicant’s “movement of said lid”. In short, this is a specious and highly improper technical interpretation of Wagener ‘505.

**Second,**

“a controller (10) ... coupled to ... operationally respond to data signals received from sources external to said container {col. 4, lines 27-45} via said port by regulating said movement in dependence upon said information {col. 3, lines 40-45}...”;

a careful reading of both column 4, lines 27 through 45 and column 3, lines 40 through 45 establishes that these passages of Wagener ‘505 focus exclusively on *detection* of an “alarm condition.” This contrasts with Applicant’s definition of “a controller” and its defined relation to “said movement”, a novel relation which is wholly absent from these passages of Wagener ‘505. Moreover, these passages of Wagener ‘505 are utterly silent on any nexus between the “data signals” mentioned in these passages of Wagener ‘505 and Applicant’s

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<sup>5</sup>

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“movement.”

Third,

“a housing” and “a controller (10) ... coupled to ... operationally respond to data signals received from sources external to said container {col. 4, lines 27-45} via said port by regulating said movement in dependence upon said information {col. 3, lines 40-45}, and generating an alarm signal in response to an unauthorized interruption of said communication via said port {col. 3, lines 45-50; col. 5, lines 5-8, lines 45-56} ... .”<sup>6</sup>

The excerpted passages of Wagener ‘505, namely {col. 4, lines 27-45}, {col. 3, lines 40-45}, {col. 3, lines 45-50} and {col. 5, lines 5-8, lines 45-56} are directed to teachings of passive activity such as “monitoring”<sup>7</sup> and “detecting”.<sup>8</sup> In contradistinction to the passive *monitoring or sensing* by Wagener ‘505, Applicant’s claims 13, 29, 50 and 52 define such active, rather than passive, behavior as, by way of example, “responding to data signals ... by selectively accommodating said release.”<sup>9</sup>

Over and above these “differences” which have been artfully ignored by the Examining staff in Paper No. 20060214, the rejected claims further define such novel aspects as active, rather than passive, behavior as, by way of example, “responding to data signals

<sup>6</sup> Examiner’s comments, pages 8 and 9, Paper No. 20060214.

<sup>7</sup> “Alternatively, the alarm sensor 13 may *sense* some other alarm condition, for example, such as the disconnection of some other protected electronic device 12 from a power source or the breakage of a security connection.”

<sup>8</sup> Column 5, lines 45-56, for example, contemplate the passive act “to detect an alarm condition, such as the opening of the protected electronic device 12, or the disconnection of the protected electronic device 12 ... .”

<sup>9</sup> Claim 29, lines 9 and 10, claim 50, lines 9 and 10, and claim 52, lines 9 and 10.

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... by selectively accommodating said release in dependence upon said information.”<sup>10</sup> In comparison, nothing in Wagener ‘505 suggests any active conduct on the basis of any of the “data signals” of Wagener ‘505.

In summary, these assertions by the Examining staff are incomplete under the express standard for obviousness *vel not* established by 35 U.S.C. §103(a), improperly focus upon Applicant’s remarks and explanations of the deficiencies found by Applicant in the art,<sup>11</sup> do not focus upon the substance of pending claims 13 through 21, 29 through 34 or 50 through 53, and are either fiction or fanciful distortions of the actual teachings of Wagener ‘505; as such the foregoing assertions are mere arguments advanced by the Examining staff devoid of evidentiary support in the prosecution record. Even ignoring *arguendo* the absence of a performance of active conduct by controller 10 of Wagener ‘505 on the basis of the “data signals” of Wagener ‘505, the mere passive *sensing* or *monitoring* can not be read to endow controller 10 of Wagener ‘505 with an ability to engage in active conduct. consequently, Wagener ‘505 fails to make a *prima facie* showing of obviousness under 35 U.S.C. §103(a).

Moreover, these distinctions between the pending claims and Wagener ‘505 may not be ignored in an application of 35 U.S.C. §103(a). Any rejection under 35 U.S.C. §103(a) must be based upon a consideration of “the subject matter as a whole”; here, they rejection

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<sup>10</sup> Claim 29, lines 9 and 10, claim 50, lines 9 and 10, and claim 52, lines 9 and 10.

<sup>11</sup> Congress has established an express criterion for gauging obviousness under 35 U.S.C. §103(a) which requires the Examining staff to consider “the differences between the subject matter sought to be patented and the prior art ... .”

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is premised upon a dissection of Applicant's remarks rather than upon the "subject matter" of the claims taken "as a whole." In short, this rejection of claims 13-21, 29-34 and 50-53 as rendered obvious by Wagener '505 is based upon an improper application of 35 U.S.C. §103(a), and may not be maintained. Accordingly, withdrawal of this rejection is respectfully urged.

In view of the above, it is submitted that all of the claims of this application are in condition for allowance, and early issuance thereof is solicited. Should any questions remain unresolved, the Examining staff is requested to telephone Applicant's attorney.

No fees are incurred by this response.

Respectfully submitted,



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